

SECTION F - CIVIL RIGHTS COMPLIANCE

EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS

The CDBG program requires equal access to the program and all funded projects and their benefits to all persons regardless of race, national origin, religion, color, sex, age or physical or mental disability.

The Federal Government requires that all grantees comply with Equal Employment Opportunity laws and regulations. Your responsibility is two fold. First your organization and the sponsoring jurisdiction must make every effort to avoid discrimination and provide equal employment for all groups. Second, you must advise your contractor and sub-contractor to do the same.

1. CHECKLIST

- ___ Documented efforts to provide equal opportunity to minorities, the disabled and women:
- ___ Documented effort to hire minority or women owned contractor and sub contractors
- ___ Demonstrate efforts to provide fair and affordable housing. Remove barriers to affordable housing via the Affirmatively Furthering Fair Housing guidelines.
- ___ Document jurisdictions barriers to accessibility of public facilities.
- ___ Document that Contractor and Sub-contractors are Equal Employment Opportunity Employers.
- ___ Show jurisdictions efforts to hire minority contractors or use women owned businesses.

2. OVERVIEW

The civil rights requirements associated with project activities receiving federal financing assistance in general, and CDBG funds in particular, have the basic purpose of protecting specific groups and/or individuals from discrimination. The Civil Rights laws are applicable not only to the beneficiaries of a federally assisted project, but also to the employees of a grantee involved in providing the assistance.

Discrimination is prohibited based on:

- Race
- National Origin
- Religion
- Color
- Sex
- Age
- Physical or Mental Disability

Protected groups:

- Blacks, Hispanics, Asians/Pacific Islanders, American Indians, and Alaskan Natives
- Women
- Groups distinguished by age (e.g., elderly)
- Disabled persons (having mental and/or physical disabilities)

As they apply to the CDBG Program, these laws protect individuals from discrimination in:

- Housing
- Benefits and services resulting from activities funded in full or in part by CDBG dollars
- Employment
- Business opportunities
- Relocation (resulting from CDBG-funded activities)

3. APPLICABLE LAWS

Civil rights compliance and monitoring responsibilities are contained in the following listing of federal laws, executive orders, and regulations. The listing for each applicable law contains the citation, general objective, and any features (e.g., thresholds) that may be relevant to the administration of CDBG-funded activities.

a. **Title VI of the Civil Rights Act of 1964 (42 USC 200(d))**

Objective -- To ensure that no person is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin.

Relevant Features - Excluded activities include contract for insurance or guarantees except where there is financial assistance involved in addition to the mortgage insurance.

b. **Title VIII of the Civil Rights Act of 1968, as Amended (42 USC 3601)**

Objective -- To provide for fair housing within constitutional limitations. Prohibits discrimination in housing on the basis of race, color, religion, sex or national origin.

Relevant Features -- State fair housing laws and procedures may be equivalent to Title VIII. Enforcement procedures are triggered by a complaint of Title VIII violations.

c. **Section 3 of the Housing and Urban Development Act of 1964, as amended (12 USC 1701 [u])**

Objective -- To provide training and employment opportunities, to the greatest extent possible to lower income residents of the project area. To provide contracts associated with a HUD-funded project to businesses located in the project area or to businesses owned, in substantial part, by residents of the project area.

Relevant Features -- Project area is defined as the "unit of local government, metropolitan area, or non-metropolitan county" in which the project is located.

d. **Section 109 of the Housing and Urban Development Act of 1974, as Amended (42 USC 5309)**

Objective -- To ensure that no person be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under Title I of the HUD Act of 1974 on the basis of race, color, national origin, age, Disability, or sex.

Relevant Features - The HUD regional office retains primary responsibility for compliance reviews related to Civil Rights requirements.

e. **Age Discrimination Act of 1975, as Amended (42 USC 6101)**

Objective -- To prohibit age discrimination in programs or activities receiving federal financial assistance.

Relevant Features -- Proof of non-compliance is the responsibility of the funding agency.

f. **Section 504 of the Rehabilitation Act of 1973, as Amended, provides that no otherwise qualified individual shall, solely by reason of his/her Disability be:**

- Excluded from participation (including employment).
- Denied program benefits.
- Subjected to discrimination under any program or activity receiving federal funds.

g. **Architectural Barriers Act of 1968, as Amended (42 USC 4151)**

Objective -- To ensure that certain buildings, and public conveyances financed with federal funds are designed, constructed, or altered as to be accessible to the physically disabled.

Relevant Features -- Buildings and facilities are defined as those intended to be accessible to the general public. Exclusions include private residential structures and the providing of guaranteed/insured loans.

h. **Equal Employment Opportunity (Executive Order 11246, September 24, 1965), as Amended.**

Objective -- To ensure that no employer performing construction work for a recipient of federal assistance discriminates against any employee or applicant for employment on the basis of race, color, religion, sex, or national origin.

Relevant Features -- Assistance is defined as a grant, contract, loan, insurance, or guarantee. Total value of a contract or subcontract is defined as both federal assistance and other public or private funds.

Exclusions include contracts and subcontracts that do not or are not expected to exceed a total value of \$10,000 over a 12 month period, and employment preferences for Indians on contracts or subcontracts on or near an Indian reservation.

i. **Equal Opportunity in Housing (Executive Order 11063)**

Objective -- Prohibits discrimination based on race, color, religion, sex, or national origin in housing and related facilities which are owned or operated by the federal government or housing and related facilities provided by federal financial assistance including mortgage insurance and guaranty programs.

j. **Americans with Disabilities Act of 1990**

Objective -- To provide "a clear and comprehensive mandate for the elimination of discrimination against individuals with disabilities."

Relevant Features -- Prohibits covered entities from discriminating against qualified job applicants and workers who are or become disabled; prohibits discrimination in programs and activities; and requires covered entities to provide telecommunication devices for the hearing impaired.

4. GRANTEE RESPONSIBILITIES

This section provides an overview of the range of general areas of civil rights and fair housing compliance for which local grantees are responsible as a result of the use of federal funds in their projects. These responsibilities require local government to take certain actions directed toward the following two categories, those being:

- a. Non-discrimination and equal opportunity: This requirement may be documented by showing EEOE posting in all public advertisements.
- b. Affirmative action to remedy and overcome the effects of past discrimination.

These requirements apply across-the-board to administration of grant activities and any of the three major program areas -- public facilities, housing, and economic development -- allowed under the Utah program.

Under the non-discrimination requirements, a grantee must take actions to ensure that no person or group is denied benefits such as employment, training, housing and contracts generated by a local CDBG activity. If there has been past discrimination, a plan identifying the effects of past discrimination and specific actions a locality will take in order to overcome identified impacts. As a project progresses, a grantee must monitor the extent to which protected groups within the community are participating in and receiving benefits from a block grant activity.

For some projects this is quite simple. For instance, CDBG funding of a local rehabilitation program is awarded based on information and targets provided in the grant application. It is easy to identify the extent to which protected groups will be impacted by the housing rehabilitation program. It is equally easy to then report on how many households headed by minorities, women, the elderly, or disabled individuals were actually rehabilitated.

For other types of projects, identifying the targets and beneficiaries may not be as simple. A main street revitalization program may be intended to benefit protected groups; however, the extent to which these groups are actually impacted is harder to control by the administering agency. At minimum, a locality should take actions to ensure that members of protected groups have equal access to all information related to training and job opportunities associated with CDBG-funded projects.

Finally, local grant recipients must demonstrate non-discrimination in the decision-making process by which elements of a particular CDBG project were determined. For example, if a locality is acquiring land for a senior citizens center, the chosen location must be as equally accessible to neighborhoods with large concentrations of minority residents as it is to those with high concentrations of non-minority households.

If local government employment is not representative of the general population of the jurisdiction, the CDBG administrator or administering agency should consider designing an affirmative action program to provide greater employment, training, and promotion opportunities for members of protected groups.

When local governments contract with private or public entities for either administration of the CDBG Program or for actual project implementation (e.g., construction of a public facility), they must provide the contractor with non-discrimination and equal opportunity information and must monitor the contractors to ensure that all required actions are taken.

5. AFFIRMATIVELY FURTHERING FAIR HOUSING

a. OVERVIEW

Title VII of the Civil Rights Act of 1968, as amended, familiarly known as the Fair Housing Act, prohibited discrimination in the sale or rental of housing on the basis of race, color, religion, sex, and national origin. It was amended in 1988 to provide stiffer penalties, establish an administrative enforcement mechanism and expand its coverage to prohibit discrimination on the basis of familial status and disability. By amending this law, Congress demonstrated a renewed commitment to achieving fair housing.

In addition to prohibiting a wide range of discriminatory practices, the Fair Housing Act requires the Secretary of HUD to administer the Department's housing and community development programs in a manner affirmatively to further fair housing. State CDBG grantees are required by Sections 104(b)(2) and 106(d)(5)(B) of the HUD Act of 1974, as amended, to certify that they will affirmatively further fair housing as a condition of receiving the CDBG funds. Additionally, Section 105*(b)(13) of the National Affordable Housing Act (NAHA) of 1990 requires submission of such a certification from a State as part of its Consolidated Plan.

b. STATE RESPONSIBILITIES

The State CDBG final regulations, at 24 CFR 570, Subpart I, contain three suggested actions for states to take in fulfilling their certification to affirmatively further fair housing. These suggestions include conducting training and actively providing educational material and activities to the participating local grantees on federal and state fair housing laws and procedures; analyzing relevant state-level data on impediments to fair housing choice, as well as the results of any local analyses; and working actively with existing state entities (public or non-profit) whose goal is to further fair housing.

c. GRANTEE RESPONSIBILITIES

Section 570.487(b)(2)(ii) instructs local governments recipients to develop proposed actions to affirmatively further fair housing at the local level, for state review and approval. The state will consider the locality to have met its certification to affirmatively further fair housing if the locality has carried out the state-approved actions.

The state requirement at this time is that grantees prepare an assessment of local ordinances that can be used to identify housing discrimination in the above areas. This assessment and the supporting documentation will be reviewed during the monitoring visit at the end of the project.

(Sample Template)

**EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER (EEO)
NON-DISCRIMINATION INFORMATION**

(The information contained herein is being maintained solely for the purpose of tracking and reporting the employment practices of (Name of Jurisdiction, an Equal Employment Opportunity Employer. The information contained herein will be used only for the purpose of insuring that the city does not and will not discriminate against any employee in its employment practices, i.e.: promotions, wages, classifications, discipline, etc., regardless of sex, race or disability. This is being done in conjunction with (Name of Jurisdiction personnel policy manual.)

Each Employee will be notified that this form will be permanently located in their individual personnel file. It is not mandatory!

Employee Name _____

Employee Gender Female_____ Male_____

Employee Race

African American_____

Asian _____

Hispanic _____

Native American _____

Pacific Islander _____

White_____

Other (specify) _____

Employee Disability No_____ Yes_____